

### **REMARKS**

Applicant thanks the Examiner for discussing the application during the interview of January 25, 2008. During the interview, the parties discussed proposed claim amendments.

In the final Office Action, the Examiner rejected claims 25, 30, 33, and 35 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,751,708 to Eng et al. ("Eng"); rejected claims 1, 5-9, 11-14, 31, 32, 36, and 48 under 35 U.S.C. § 103(a) as being unpatentable over Eng in view of U.S. Patent No. 5,764,899 to Eggleston et al. ("Eggleston"); rejected claims 3, 4, and 15 under 35 U.S.C. 103(a) as being unpatentable over Eng and Eggleston, further in view of U.S. Patent No. 5,493,695 to Aitkenheadi et al. ("Aitkenheadi"); rejected claims 27, 28, and 37 under 35 U.S. C. 103(a) as being unpatentable over Eng in view of Aitkenheadi; rejected claim 29 under 103(a) as being unpatentable over Eng and Aitkenheadi, further in view of Eggleston; and rejected claims 38-39 under 35 U.S.C. 103(a) as being unpatentable over Eng in view of U.S. Patent No. 5,465,392 to Baptist et al. ("Baptist"). The Examiner also objected to claims 16-17 as being dependent upon a rejected base claim, but including allowable subject matter.

By this Amendment, Applicant amends claims 1, 4, 5, 9, 15, 16, 25, 29, 33, 37, and 48, and cancels claims 18-24 and 40-47. Claims 1, 3-9, 11-17, 25, 27-33, 35-39, and 48 are pending in this application. Applicant thanks the Examiner for indicating allowable subject matter.

Applicant traverses the rejection of claims 25, 30, 33, and 35 under 35 U.S.C. § 102(e).

Independent claim 25 recites an information distribution method comprising, *inter alia*, “transmitting the request signal from the terminal apparatus to the server apparatus” wherein “the request signal includes time limit information indicating a deadline for the distribution of the contents information file,” and “the distribution time period is scheduled based on the deadline . . . .”

Eng does not teach or suggest a request that includes the claimed time limit information. The timer of Eng is not included in a request. Instead, in Eng, the end-user device waits for an Access ID or an ACK message from the communications controller/scheduler until a timer in the user-end device expires. See Eng, col. 6, lines 18-22. Eng fails to disclose “transmitting the request signal from the terminal apparatus to the server apparatus” wherein “the request signal includes time limit information indicating a deadline for the distribution of the contents information file,” as recited in claim 25.

Furthermore, Eng fails to disclose “scheduling, in the server apparatus, a distribution time period,” wherein “the distribution time period is scheduled based on the deadline . . .” as recited in claim 25. In Eng, the communications controller/scheduler does not have any information regarding the timer started in the end-user device. In Eng, only the receiving of communication by the end-user device is based on the timer, and the sending of communication by the communications controller/scheduler is not based on the timer in the end-user device.

For at least the reasons given above, Eng fails to anticipate claim 25. Furthermore, claim 33, although different in scope from claim 25, also recites a “request signal comprising time limit information indicating a deadline for the distribution of the

contents information file.” Therefore, claim 33 is allowable over Eng for at least the same reasons discussed above in connection with claim 25. In addition, dependent claims 30 and 35 are allowable over Eng at least by virtue of their dependence from allowable base claims 25 and 33, respectively. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 25, 30, 33, and 35.

Applicant respectfully traverses the rejections under 35 U.S.C. § 103(a).

As noted above, Eng fails to teach or suggest each and every recitation of claim 25. Similarly, Eng fails to teach or suggest each and every recitation of independent claims 1, 9, and 48 although different in scope from claim 25, for at least reasons similar to those given above for claim 25. Furthermore, other cited references (Eggleston, Aitkenheadi, and Baptist) fail to cure the above-noted deficiencies of Eng. The Examiner has not addressed how these claim recitations are disclosed by the prior art, and has not articulated why it would have been obvious to include the recitations in the systems disclosed in the prior art. As such, the Examiner has failed to establish a *prima facie* showing of obviousness. Therefore, independent claims 1, 9, and 48 are allowable over the cited references.

Dependent claims 3-8, 11-15, 27-29, 31, 32, and 36-39 are allowable over the cited references at least by virtue of their dependence from allowable base claims 1, 9, 25, and 33. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection of claims 1, 5-9, 11-14, 31, 32, 36, and 48 under 35 U.S.C. § 103(a) as being unpatentable over Eng in view of Eggleston; the rejection of claims 3, 4, and 15 under 35 U.S.C. § 103(a) as being unpatentable over Eng and Eggleston, further in view of

Aitkenheadi; the rejection of claims 27, 28, and 37 under 35 U.S.C. § 103(a) as being unpatentable over Eng and Aitkenheadi; the rejection of claim 29 under 35 U.S.C. § 103(a) as being unpatentable over Eng and Aitkenheadi, further in view of Eggleston; and the rejection of claims 38 and 39 under 35 U.S.C. § 103(a) as being unpatentable over Eng in view of Baptist.

In view of the foregoing remarks, the claims are neither anticipated nor rendered obvious in view of the cited references.

Applicant respectfully requests that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 1, 3-9, 11-17, 25, 27-33, 35-39, and 48 in condition for allowance. Applicant submits that the proposed amendments of claims 1, 4, 5, 9, 15, 16, 25, 29, 33, 37, and 48 do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner.

Furthermore, Applicant respectfully points out that the final action by the Examiner presented some new arguments as to the application of the art against Applicant's invention. It is respectfully submitted that the entering of the Amendment would allow the Applicant to reply to the final rejections and place the application in condition for allowance.

Finally, Applicant submits that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

The final Office Action contains characterizations of the claims and the related art with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant declines to subscribe to any statement or characterization in the final Office Action.

In discussing the specification, claims, and drawings in this Amendment, it is to be understood that Applicant is in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification and/or shown in the drawings. Rather, Applicant is entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

If a telephone interview will expedite issuance of this application, the Examiner is requested to call Applicant's representative whose name and registration number appear below, at 202-408-4138 to discuss any remaining issues.

Please grant any extensions of time required to enter this Amendment and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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